

Message Text

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ORIGIN ARA-10

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FM SECSTATE WASHDC

TO AMEMBASSY SAN JOSE

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E.O. 11652: N/A

TAGS: ETRD, CS

SUBJECT: POSSIBLE DISCRIMINATORY LEGISLATION

REF: (A) SAN JOSE 205L (B) SAN JOSE 2262 (C) SAN JOSE
2597

1. OF THE TWO MEASURES DESCRIBED IN REFTEL (A) ONLY THE FIRST, I.E., THE TAX ON SOFTDRINKS AND CIGARETTES, WOULD APPEAR TO CLEARLY DISCRIMINATE AGAINST FOREIGNERS. IN LIGHT OF SUBSEQUENT INFORMATION PROVIDED IN REFTEL (B) WE WILL CONFINE OUR COMMENTS TO THIS MEASURE.

2. WHILE, AS NOTED, THE PROPOSED TAX DOES APPEAR TO BE DISCRIMINATORY, IT DOES NOT APPEAR AS IF THE USG WOULD HAVE GROUNDS TO PROTEST SUCH TREATMENT UNDER EXISTING TREATIES WITH COSTA RICA. OUR FCN TREATY WITH COSTA RICA PROHIBITS MANY KINDS OF DISCRIMINATION AGAINST INDIVIDUAL U.S. CITIZENS BUT DOES NOT REQUIRE EQUAL TREATMENT OF US CORPORATIONS. WE ALSO UNDERSTAND FROM REFTEL (C) THAT
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THE INDUSTRY MAY BE SOMEWHAT RELUCTANT TO COMPLAIN AGAINST

THIS MEASURE ON GROUNDS OF DISCRIMINATION BECAUSE THE MEASURE PROVIDES MERELY FOR AN INCREASE IN EXISTING DISCRIMINATORY ASSESSMENTS, I.E., THE INDUSTRY ACCEPTED THE

DISCRIMINATORY NATURE OF THE LEGISLATION, WHEN IT WAS FIRST PASSED, BECAUSE THE TAX ITSELF WAS INSIGNIFICANT, BUT NOW THAT THE TAX LEVEL IS BEING RAISED THEY ARE CONCERNED.

3. TAKING ABOVE INTO CONSIDERATION, HOWEVER, THE DEPARTMENT DOES NOT BELIEVE IT IS PRUDENT TO ALLOW THIS TYPE OF DISCRIMINATION TO OCCUR WITHOUT AT LEAST NOTING OUR CONCERN FOR THE RECORD. THEREFORE, IF THE EMBASSY SEES FIT, IT MIGHT WISH TO POINT OUT TO THE APPROPRIATE PERSONS THAT IT CONSIDERS THE HIGHER TAX ON INTERNATIONAL SOFTDRINKS AND CIGARETTES TO BE INHERENTLY DISCRIMINATORY.
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